

Road to be promptly located, &c.

Authorized to enter upon land for purposes of exploring, &c.

Proviso.

Condemnation of land.

SEC. 9. That the board of directors shall, as soon after the organization as possible, proceed to locate and have constructed the said railroad on the route they may find most practicable by the way of Asheville as aforesaid.

SEC. 10. That it shall be lawful for the president and directors, their agent, superintendents, engineers, or others in their employ, to enter at all times upon all lands or water, for the purpose of exploring, surveying, leveling, or laying out the route of said railroad, and locating the same, and to do and to erect all necessary works, buildings and appendages thereof, doing no unnecessary damage to private property; and when the route of said road shall have been determined upon, and a survey of the same deposited in the office of the secretary of state, then it shall be lawful for the said company, by the officers, agents, engineers, superintendents, contractors and others in their employ, to enter upon, take possession of, hold, have, use and excavate any such lands, and to erect all the work necessary and suitable for the completion or repairing of said road, subject to such compensation as is hereinafter provided: *Provided, always,* that the payment or tender of the payment of all damages for the occupancy of all land through which the said road may be laid out, be made before the said company shall enter upon, or break ground upon the premises, except for surveying or laying out said road, unless the consent of the owners thereof be first had and obtained.

SEC. 11. That when any land or right of way may be required by said company for the purpose of constructing their road, and for want of agreement as to the value thereof, or for any other cause, the same cannot be purchased from the owners, the same may be taken at a valuation by five commissioners, or a majority of them, to be appointed by the clerk of the superior court of the county where some part of the right of way is located; in making the said valuation the said commissioners